

REMARKS

This Amendment is filed in response to the Office Action dated March 22, 2005. For the following reasons this application should be allowed and the case passed to issue. No new matter is introduced by this Amendment. The amendment to claim 1 is supported by claim 2. Amended claim 3 is supported by claim 1. Support for the amendment to claim 8 is found in claims 6 and 1. The amendment to claim 15 is supported by claims 1 and 13. Amended claim 21 is supported by claims 1 and 20. The amendment to claim 22 merely clarifies the claim and does not narrow the scope of the claim.

Claims 1 and 3-46 are pending in this application. Claims 1-7, 13, 14, 20, and 22-49 have been rejected. Claims 8-12, 15-19, and 21 are allowable. Claims 1, 3, 8, 15, 21, and 22 have been amended in this response. Claims 2 and 47-49 have been canceled.

Allowable Subject Matter

Claims 8-12, 15-19, and 21 are allowable over the prior art of record. Applicants gratefully acknowledge the indication of allowable subject matter. Claims 8, 15, and 21 have been rewritten in independent form. Applicants submit that claims 8-12, 15-19, and 21 should be allowed.

Claim Rejections Under 35 U.S.C. § 102

Claims 1-7, 13, 14, 22-30, 35, 37-41, and 47-49 are rejected under 35 U.S.C. § 102 as being anticipated by Alim (U.S. Patent No. 6,347,687). This rejection is traversed, and reconsideration and withdrawal thereof respectfully requested. The following is a comparison between the invention as claimed and the cited prior art.

An aspect of the invention, per claim 1, is a folding ladder configured for installation in an opening to provide access between one floor or space and another floor or space comprising

an upper ladder section comprising a left ladder rail and a right ladder rail. A lower ladder section comprises a left ladder rail and a right ladder rail. A hinge rotatably connects the upper ladder section left ladder rail to the lower ladder section left ladder rail and rotatably connects the upper ladder section right ladder rail to the lower ladder section right ladder rail. The hinge is a locking hinge configured to lock in at least one position including a fully deployed position of the foldable ladder. A plurality of steps is rotatably disposed between the upper pair of ladder rails and the lower pair of ladder rails. The plurality of steps is configured for rotation between a retracted position and a deployed position.

Another aspect of the invention, per claim 3, is a folding ladder configured for installation in an opening to provide access between one floor or space and another floor or space comprising a hinge configured to provide increased resistance to opening or closing at at least one angle along an arc traveled by the ladder including a fully deployed position of the folding ladder.

Another aspect of the invention, per claim 22, is a stowable ladder configured for installation in an opening to provide access between one floor or space and another floor or space comprising an upper ladder section comprising a left ladder rail and a right ladder rail having at least one step disposed therebetween. A lower ladder section is configured to translate and rotate with respect to the upper ladder section into a deployed position substantially co-linear with the upper ladder section. The lower ladder section comprises a left ladder rail and a right ladder rail having at least one step disposed therebetween. At least one of the steps is rotatably disposed and is configured for rotation between a retracted position and a deployed position.

The Examiner asserted that Alim discloses a folding ladder comprising upper and lower sections comprising left and right rails, a lockable resistance hinge rotatably connecting the upper and lower ladder rails, and a plurality of steps.

Contrary to the Examiner's assertions, Alim does not anticipate the claimed folding ladder because Alim does not disclose the locking hinge configured to lock in at least one position including a fully deployed position of the folding ladder, as required by claim 1; the hinge configured to provide increased resistance to opening or closing at at least one angle along an arc traveled by the ladder including a fully deployed position of the folding ladder, as required by claim 3; and the lower ladder section configured to translate and rotate with respect to the upper ladder section into a deployed position **substantially co-linear** with the upper ladder section, as required by claim 22.

Though the Examiner asserted that Alim set forth a lockable resistance hinge 17, it is not seen where Alim sets forth such a teaching. The top step of the Alim step ladder limits how far apart the upper and lower sections of the Alim ladder can rotate. The hinge 17 does not appear to be locking or provide increased resistance to the rotation of the upper and lower sections. If the Examiner maintains this rejection, it is respectfully requested that the Examiner point out, with specificity, where Alim discloses a lockable resistance hinge 17. As regards to claim 22, Alim teaches that the step ladder opens up to an inverted V. The inverted V shape is clearly not substantially co-linear, as required by claim 22.

The factual determination of lack of novelty under 35 U.S.C. § 102 requires the disclosure in a single reference of each element of a claimed invention. *Helifix Ltd. v. Blok-Lok Ltd.*, 208 F.3d 1339, 54 USPQ2d 1299 (Fed. Cir. 2000); *Electro Medical Systems S.A. v. Cooper Life Sciences, Inc.*, 34 F.3d 1048, 32 USPQ2d 1017 (Fed. Cir. 1994); *Hoover Group, Inc. v.*

Custom Metalcraft, Inc., 66 F.3d 399, 36 USPQ2d 1101 (Fed. Cir. 1995); *Minnesota Mining & Manufacturing Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 24 USPQ2d 1321 (Fed. Cir. 1992); *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051 (Fed. Cir. 1987). Because Alim does not disclose the locking hinge configured to lock in at least one position including a fully deployed position of the folding ladder, the hinge configured to provide increased resistance to opening or closing at at least one angle along an arc traveled by the ladder including a fully deployed position of the folding ladder, and the lower ladder section configured to translate and rotate with respect to the upper ladder section into a deployed position substantially co-linear with the upper ladder section, as required by claims 1, 3, and 22, respectively, Alim does not anticipate claims 1, 3, and 22.

Applicants further submit that Alim does not suggest the claimed folding and stowable ladders.

Claims 22-49 are rejected under 35 U.S.C. § 102 as being anticipated by McAllister et al. (U.S. Patent No. 4,750,587). This rejection is traversed, and reconsideration and withdrawal thereof respectfully requested. The following is a comparison between the invention as claimed and the cited prior art.

Claim 22 requires an upper ladder section comprising a left ladder rail and a right ladder rail having at least one step disposed therebetween and a lower ladder section, configured to translate and rotate with respect to the upper ladder section into a deployed position substantially co-linear with the upper ladder section, comprising a left ladder rail and a right ladder rail having at least one step disposed therebetween.

The Examiner averred that McAllister et al. set forth a ladder comprising an upper section, a lower section, and an additional section (foot portion) configured to translate and rotate with respect to the lower ladder section.

McAllister et al. do not anticipate the claimed stowable ladder because McAllister et al. do not disclose the upper ladder section having at least one step disposed therebetween and a lower ladder section, configured to translate and rotate with respect to the upper ladder section into a deployed position substantially co-linear with the upper ladder section, having at least one step disposed therebetween, as required by claim 22.

The Examiner apparently considered the lower section of the McAllister et al. ladder as corresponding to the claimed upper section and the foot of the McAllister et al. ladder as corresponding to the claimed lower section. However, the foot of the McAllister et al. ladder does not have at least one step disposed therebetween, as required by claim 22. Therefore, the foot of the McAllister et al. ladder can not correspond to the claimed lower section. Furthermore, McAllister et al. do not disclose that the lower section of the McAllister et al. ladder is configured to translate and rotate with respect to the upper ladder section, as required by claim 22. Therefore, McAllister et al. do not anticipate the claimed stowable ladder.

Applicants further submit that McAllister et al. do not suggest the claimed stowable ladder.

The dependent claims further distinguish the claimed invention, and are allowable for at least the same reasons as independent claims 1 and 22.

Claim Rejections Under 35 U.S.C. § 103

Claim 20 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Alim in view of McAllister et al. This rejection is traversed, and reconsideration and withdrawal thereof respectfully requested.

Alim and McAllister et al., whether taken alone, or in combination, do not suggest the claimed foldable ladder. McAllister et al. do not cure the deficiencies of Alim, as McAllister et al. do not suggest a stowable ladder with the locking hinge configured to lock in at least one position including a fully deployed position of the folding ladder, as required by claim 1. Therefore, claim 20 is allowable for at least the same reasons as independent claim 1.

In light of the above Amendment and Remarks, this application should be allowed and the case passed to issue. If there are any questions regarding these remarks or the application in general, a telephone call to the undersigned would be appreciated to expedite prosecution of the application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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